

Town of Lovettsville

Town Council Minutes of the September 14, 2017 Regular Meeting and Public Hearing

Mayor Call to Order/Pledge of Allegiance

Mayor Zoldos called the Regular Meeting of the Lovettsville Town Council to order at 7:01p.m. on September 14, 2017 at the Lovettsville Town Hall, 6 East Pennsylvania Avenue, Lovettsville, VA.

Council Members Present

- Mayor Robert Zoldos II
- Council Member James McIntyre
- Council Member Rob Gentile
- Vice Mayor Tiffany Carder
- Council Member Kimberly Allar
- Council Member Nate Fontaine

Council Absent

- Council Member Mike Senate

Mayor Zoldos asked for a motion to go into closed session at 7:02 p.m.

Closed Session – Code Enforcement

Vice Mayor Carder made the following motion:

Motion: I move that the Lovettsville Town Council convene in closed session pursuant to Va. Code section 2.2-3711 A 7 for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiation or litigating posture of the public body; or consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, with regard to zoning violation enforcement options, specifically including 14 Loudoun Street; and thereafter reconvene in open session for action as appropriate.

Second: Fontaine

Aye: McIntyre, Gentile, Carder, Allar, and Fontaine

Nay: None

Abstain: None

Absent: Senate

The Council convened in closed session at 7:03 p.m. and met in the trailer adjacent to the Town Hall. The following staff members were also present at the closed session – Town Manager Sam Finz, Zoning Administrator Joshua Bateman, and Town Attorney Elizabeth Whiting.

Certification of the Closed Session

Mayor Zoldos read the Certification of Closed Session aloud: Do you certify that to the best of your knowledge (1) only public business matters lawfully exempted from open meeting requirements under this chapter and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting? Council Members McIntyre, Gentile, Carder, Allar, and Fontaine certified to the above. Councilman Senate was absent.

The Council reconvened in open session at 7:33 p.m.

Pledge of Allegiance

Mayor Zoldos led those assembled in the Pledge of Allegiance.

Council Members Present

- Mayor Robert Zoldos II
- Council Member Jim McIntyre
- Council Member Rob Gentile
- Vice Mayor Tiffany Carder
- Council Member Kimberly Allar
- Council Member Nate Fontaine

Council Absent

- Council Member Mike Senate

Staff Present

- Town Clerk Harriet West
- Interim Town Manager Sam Finz
- Project Manager Karin Fellers
- Town Treasurer Lance Gladstone
- Town Attorney Liz Whiting
- Zoning Administrator Joshua Bateman
- Clerk Lisa Mullen
- Utility Director Stephen Gates

Stephanie Wolf Planning Commission Vice-Chair was in the audience.

Presentations

A. Constitution Week Proclamation

Nancy Spannaus gave a brief presentation on Constitution Week. Council Members read the Proclamation for Constitution Week aloud. Mayor Zoldos called for a motion to accept the proclamation.

Motion: I move to accept.

By: Carder

Second: Fontaine

Aye: McIntyre, Gentile, Carder, Allar, and Fontaine

Nay: None

Abstain: None

Absent: Senate

Mayor Zoldos signed the proclamation and presented it to representatives of the Daughters of the American Revolution.

Comments from the Public

Mayor Zoldos called for comments from the public. There were none.

Prior to moving on to Community Presentations and Reports, Mayor Zoldos requested that the Council move to Adopt Resolution 2017-09-002: Approve Process for Civil Enforcement of Zoning Ordinance Violations and Authorize Enforcement Action for Fence Violations at 14 S. Loudoun Street. There was no objection from the Council. Town Attorney Whiting noted several amendments to the Resolution including the Resolution Number, address, and the steps in the enforcement process referenced in #5.

Motion: I move to accept Resolution 2017-09-002 as amended (Attachment 1).

By: Fontaine

Second: McIntyre

At Mayor Zoldos' request, Attorney Whiting provided background on the Town's enforcement process.

She noted that this is the first case where steps to achieve voluntary compliance have been insufficient. She provided background on this particular case over the past year and the Town's efforts to protect its ordinance, while allowing options for voluntary compliance. Mr. Finz noted that the Zoning Administrator will be responsible for enforcement.

Aye: McIntyre, Gentile, Carder, Allar, and Fontaine
Nay: None
Abstain: None
Absent: Senate

Community Presentations

- A. Loudoun County Sheriff's Office
Deputy Moats reported on the 9-11 Ceremony and an increase in reports of traffic violations through the Loudoun County Traffic Hot Line. A discussion ensued regarding the use of the online reporting system rather than the phone number.
- B. Lovettsville Volunteer Fire and Rescue Company
Mayor Zoldos reported that October 15 is open house at the fire hall.
- C. Lovettsville Community Center
There was no report.
- D. Lovettsville Library
Vice-Mayor Carder reported on the summer reading program, library card sign-up month, and other upcoming events.

Planning Commission Report

Lovettsville Planning Commission Vice-Chair Wolf reported that the Planning Commission has nearly completed redefining the non-residential usage for commercial and light industrial and they have begun work on the Town Square Mast Plan, beginning with a citizen survey. Mr. Bateman responded to a question from Councilman Gentile about the survey options.

Committee Reports

- A. Events Committee & Subcommittees
Councilman McIntyre reported on the recent working group meetings and final plans for Oktoberfest.
- B. Business & Tourism Committee
There was no report.
- C. Parks & Beautification Committee
Town Engineer Fellers reported that the Parks Committee met to provide feedback to the Planning Director on the Town Square Master Plan park options for the survey. She noted that the clock tower ornaments will be sold at the Oktoberfest information booth and possibly at other events. A discussion ensued about participating and Christkindlmarkt and the overall committee structure.
- D. Events Subcommittees
Councilwoman Allar reported on Patriot Day, Veterans Day, and planning for the upcoming Love Winter events. There were no other reports.
- E. Infrastructure Committee
There was no report.
- F. Information Flow Committee
There was no report.

Additions/Deletions/Modifications to the Agenda

There were none.

Minutes

A. December 15, 2016 Regular Meeting

Motion: I move to approve the minutes of the December 15, 2016 regular meeting.

By: Carder

Second: Allar

Aye: McIntyre, Gentile, Carder, and Allar

Nay: None

Present: Fontaine

Abstain: None

Absent: Senate

B. January 19, 2017 Regular Meeting

Motion: I move to accept the minutes of the January 19, 2017 regular meeting, as amended.

By: Carder

Second: McIntyre

Aye: McIntyre, Gentile, Carder, and Allar

Nay: None

Present: Fontaine

Abstain: None

Absent: Senate

C. January 26, 2017 Regular Meeting and Public Hearing

Motion: I move to accept the minutes of the January 26, 2017 regular meeting and public hearing.

By: Carder

Second: Allar

Aye: McIntyre, Gentile, Carder, and Allar

Nay: None

Present: Fontaine

Abstain: None

Absent: Senate

D. August 24, 2017 Regular Meeting

Motion: I move to accept the minutes of the regular meeting of August 24, 2017 as amended.

By: Fontaine

Second: Allar

Aye: McIntyre, Gentile, Carder, Allar, and Fontaine

Nay: None

Abstain: None

Absent: Senate

Staff Reports:

A. Report from the Town Engineer

Ms. Fellers provided a written report.

B. Report from the Planning/Zoning Administrator

Mr. Bateman provided a written report and gave updates on Heritage Highlands, Loudoun West, the 1836 Taproom, and Velocity Wings.

C. Report from the Utility Director

Town Utility Director Gates submitted a written report.

D. FY17 End-of-Year Financial Report (Unaudited)

Town Treasurer Gladstone presented this item and responded to questions from Councilman Fontaine regarding the decrease in business license fees. A discussion ensued about the quarterly report to be presented in October.

E. Town Manager Report

Mr. Finz said he has been working with staff on financing, capital projects, legal support, code enforcement, and events.

Action/Discussion Items:

A. Lovettsville Glen Subdivision – Bond Reduction Request

Mr. Bateman presented this item. The Council is being asked to approve a request to reduce the bond for public improvements recently completed in the Lovettsville Glen Subdivision. Councilman Fontaine made the following motion:

Motion: I move to approve Resolution 2017-09-0001 to reduce the performance bond for the Lovettsville Glen Subdivision from \$809,195.00 to \$278,849.40 (Attachment 2).
Second: McIntyre
Aye: McIntyre, Gentile, Carder, Allar, and Fontaine
Nay: None
Abstain: None
Absent: Senate

B. Selection of Engineers for the E. Broad Way Phase 2A Improvements Project

Ms. Fellers presented this item. The Council is being asked to select engineers for design and inspection/construction management support for East Broad Way Phase 2A and to approve a scope of services for the initial design work. The selection committee is recommending awarding the contract to Pennoni; however, the scope is higher than what has been budgeted. Staff is asking the Council to select the engineer and to authorize the Town Manager to negotiate the scope and come back to the Council with a funding plan. Mr. Finz said there is \$150,000 available from the County for this project and that the Town may need to use some of its reserve funds to complete the engineering. He will come back to the Council with a recommendation after he has completed the negotiation. Vice Mayor Carder made the following motion:

Motion: I move that Town Council select Pennoni to complete the design engineering for E. Broad Way Phase 2A Improvements Project and authorize the Town Manager to negotiate with the Engineering Firm to finalize the Scope of Services and present a plan for funding this work. I further move to authorize the Town Manager to where practicable, use outside grant application development services with a budget not to exceed \$10,000 to support funding applications for the project.
Second: McIntyre
Aye: McIntyre, Gentile, Carder, Allar, and Fontaine
Nay: None
Abstain: None
Absent: Senate

C. Detailed Review and Analysis of FY17 and FY18 Five-Year CIP and Capital Budgets

Mr. Finz presented this item. The Council is being asked to consider changes to the FY18 General and Utility Fund CIP and Capital budgets that more accurately reflect projects, project completion dates, and project budgets. Mr. Finz said he is requesting approval from the Council to proceed with conducting a public hearing since the proposed FY 18 budget increase is more than one percent of the total budget. Ms. Fellers noted that the increase in the FY 18 budget is due to carryover from projects that were not fully completed in FY 17. Councilwoman Allar made the following motion:

Motion: I move that the Town Council authorize a public hearing for the proposed amendment to the FY18 Five Year CIP and Capital Budgets to be held on October 12, 2017.

Second: McIntyre
Aye: McIntyre, Gentile, Carder, Allar, and Fontaine
Nay: None
Abstain: None
Absent: Senate

D. Policy and Application for Use of the Town Seal and Branding Materials

Ms. West presented this item. The Council is being asked to approve the policy and application for use of the Town Seal and Branding Materials. Following discussion, the Council tabled this item pending additional information from staff about legally protecting the Town Seal.

Discussion Item

There were none.

Information Items

A. County Administrator Three-Way Stop Sign (Lovettsville Road, Milltown Road, and E. Broad Way)
Mayor Zoldos reported on the response he received from VDOT regarding the traffic study.

Comments from the Mayor and Town Council

Councilman McIntyre thanked Mayor Zoldos for his help getting the new turf for the Weiner Dog Races. He also thank the MayFest Committee for taking over the Information Booth at Oktoberfest.

Mayor Zoldos reported on the response he received from Verizon about the poor service in Town, paving on Rt. 287, the condition of S. Loudoun Street, the COLT meeting, and Patriot Day.

Adjournment

There being no further business before the Council, the meeting was adjourned at 9:17p.m.

Respectfully submitted,



Harriet West, Town Clerk

Date Approved: October 12, 2017

Attachments:

1. Resolution 2017-09-002 for Approval for Civil Enforcement of Zoning Ordinance Violations
2. Resolution 2017-09-001 for VDOT Acceptance of N. Church Street

Town of Lovettsville

Resolution 2017-09-0001: APPROVE FIRST BOND REDUCTION FOR PUBLIC IMPROVEMENTS IN LOVETTSVILLE GLEN SUBDIVISION

MOTION: FONTAINE

SECOND: MCINTYRE

WHEREAS, H2 Land Company on behalf of Nighthawk Investments, LLC (hereinafter "the applicant") has received approval of subdivision construction drawings for the Lovettsville Glen Subdivision and commenced construction of site improvements in accordance with said approval; and

WHEREAS, the Lovettsville Town Council on January 19, 2017 approved the performance agreement dated December 23, 2016 provided by the applicant and Irrevocable Letter of Credit No. 13002349-8003 issued by MVB Bank, Inc (surety) guaranteeing the installation of required public improvements within the Lovettsville Glen Subdivision pursuant to Section 30-34 of the Subdivision Ordinance (Chapter 30 of the Town Code); and

WHEREAS, pursuant to Section 30-35 of the Subdivision Ordinance and §15.2-2245 of the Code of Virginia, the applicant has submitted a request for a first reduction in the amount of the performance bond based upon the extent of public improvements installed, as documented on the bond reduction forms prepared by the applicant dated August 21, 2017; and

WHEREAS, based upon inspection by the Town's engineering consultant, Christopher Consultants, the Town supports a reduction in the bond from the current bond amount of \$809,195.00 to the new bond amount of \$438,944.40.

NOW, THEREFORE, BE IT RESOLVED that the Lovettsville Town Council hereby approves the recommendation of the Town's engineering consultant referenced above, and authorizes the Mayor and Town Attorney to approve the reduction as appropriate when tendered in a form approved by the Town Attorney.

VOTE:

Ayes: MCINTYRE, GENTILE, CARDER, ALLAR, FONTAINE

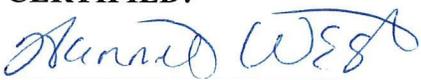
Nays: NONE

Abstentions: NONE

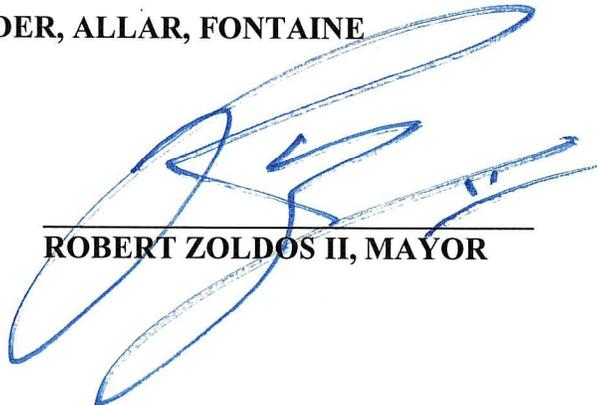
Absent for Vote: SENATE

APPROVED: September 14, 2017

CERTIFIED:



**HARRIET WEST
TOWN CLERK**


ROBERT ZOLDOS II, MAYOR

The German Settlement

Town of Lovettsville

Resolution 2017-09-002:

**APPROVE PROCESS FOR CIVIL ENFORCEMENT
OF ZONING ORDINANCE VIOLATIONS AND
AUTHORIZE ENFORCEMENT ACTION FOR
FENCE VIOLATIONS AT 14 S. LOUDOUN STREET**

MOTION: FONTAINE

SECOND: McINTYRE

WHEREAS, Town policy customarily relies upon voluntary enforcement measures to abate violations of the zoning ordinance when they are discovered or have been brought to the attention of the Town Council or Zoning Administrator, without need to resort to coercive measures authorized by law; and

WHEREAS, recent experience with failing to obtain voluntary compliance prompted the Interim Town Manager to seek a report from the Town Attorney and Zoning Administrator regarding options available to the Town, recommendations regarding use of such options, and development and update of forms and procedures for implementing a formal program of zoning enforcement via implementation of the civil penalty program authorized by Va. Code section 15.2-2209;

WHEREAS, the civil penalty enforcement program foresees abating violations by step-by-step proceedings according to the following typical sequence after receipt of a complaint or report of zoning violation:

1. Informal contact with the person creating or maintaining the violation, to alert him as to the ordinance violation and measures necessary to bring the property into compliance with the zoning ordinance.
2. Letter memorializing informal contact, confirming violation and urging cooperative effort to remedy the violation.
3. Notice of violation (NOV) and corrective order: Formal notice of violation and order setting a reasonable time period in which prescribed remedial action must be taken to abate the violation, noting prospect of civil penalties or other enforcement action if not corrected and noting opportunity to appeal to BZA.
4. Following failure to correct within time prescribed and failure to appeal to BZA or resolution of the BZA appeal in favor of the Town, issuance of Civil Penalty Ticket(s). First offense \$200; subsequent offenses \$500, not to be charged any more frequently than once every 10 days and not to exceed \$5,000 in total fines.
5. Following failure to cure violation after issuance of three tickets, Town Attorney enforcement letter noting referral of file and giving a date certain by which fines must be paid and violation cured, or enforcement proceedings will be filed in General District Court.
6. If violation remains uncorrected and tickets remain unpaid on the date specified in the Town Attorney enforcement letter, enforcement of unpaid tickets via summons and warrant in debt in General District Court. Order of Abatement can be obtained from

The German Settlement

Court if the violation remains uncorrected, as well as judgment for the cumulative amount of the tickets, filing fees and up to 20% attorney's fees.

7. Non-compliance with the Order of Abatement, which sets a time period no greater than six months for completion, is enforceable by the Court's contempt powers and Va. Code section 15.2-2209 also makes each day of violation of the order a separate offense, subject to further fines.

NOW, THEREFORE, BE IT RESOLVED that the Lovettsville Town Council hereby approves the recommendations of the Zoning Administrator for implementing a civil penalty program for zoning violations, as outlined above, and specifically authorizes initiating enforcement action in accordance with the program to abate the fence violations existing at 14 S. Loudoun Street.

VOTE:

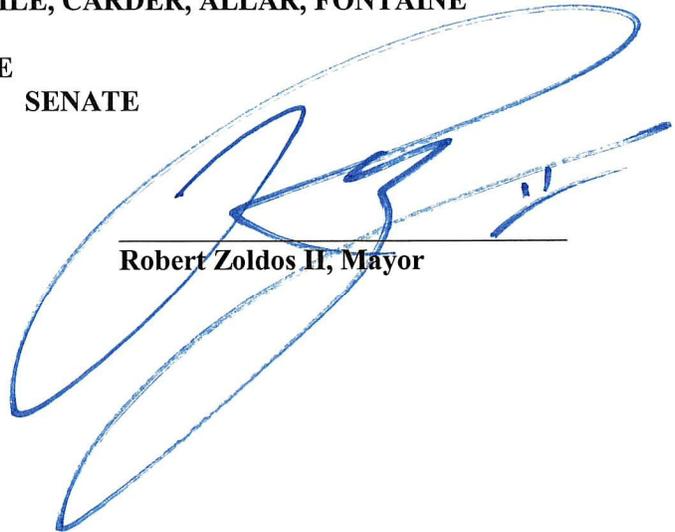
AYES: MCINTYRE, GENTILE, CARDER, ALLAR, FONTAINE
NAYS: NONE
ABSTENTIONS: NONE
ABSENT FOR VOTE: SENATE

APPROVED: September 14, 2017

CERTIFIED:



Harriet West, Town Clerk



Robert Zoldos II, Mayor